

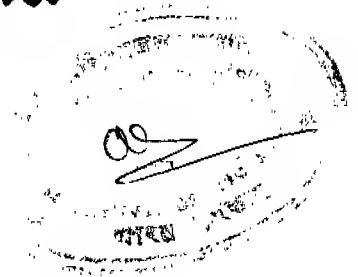


भारत का राजपत्र The Gazette of India

असाधारण
EXTRAORDINARY

भाग II—खण्ड 1
PART II—Section 1

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY



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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके ।
Separate paging is given to this Part in order that it may be filed
as a separate compilation

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 2nd January, 1993/Pausa 12, 1914 (Saka)

THE MULTIMODAL TRANSPORTATION OF GOODS
ORDINANCE, 1993

No. 6 OF 1993

Promulgated by the President in the Forty-third Year of the
Republic of India.

An Ordinance to provide for the regulation of the multimodal transportation of goods, from any place in India to a place outside India, on the basis of a multimodal transport contract and for matters connected therewith or incidental thereto.

WHEREAS the Multimodal Transportation of Goods Ordinance, 1992 to provide for the aforesaid matters was promulgated by the President on the 16th day of October, 1992;

AND WHEREAS the Multimodal Transportation of Goods Bill, 1992 was introduced in the Council of States to replace the said Ordinance, and the said Bill has been passed by the Council of States and is pending in the House of the People;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

CHAPTER I

PRELIMINARY

Short title
extent and
Commence-
ment.

1. (1) This Ordinance may be called ~~the~~ Multimodal Transportation of Goods Ordinance, 1993.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall be deemed to have come into force on the 16th day of October, 1992.

Defini-
tions.

2. In this Ordinance, unless the context otherwise requires,—

(a) "carrier" means a person who is engaged in the business of transporting for hire goods, by road, rail, inland waterways or sea;

(b) "competent authority" means any person or authority authorised by the Central Government, by notification in the Official Gazette, to perform the functions of the competent authority under this Ordinance;

(c) "consignee" means the person named as consignee in the multimodal transport contract;

(d) "consignment" means the goods entrusted to a multimodal transport operator for multimodal transportation;

(e) "consignor" means the person, named in the multimodal transport contract as consignor, by whom or on whose behalf the goods covered by such contract are entrusted to a multimodal transport operator for multimodal transportation;

(f) "delivery" means,—

(i) in the case of a negotiable multimodal transport document, delivering of the consignment to, or placing the consignment at the disposal of, the consignee or any other person entitled to receive it;

(ii) in the case of a non-negotiable multimodal transport document, delivering of the consignment to, or placing the consignment at the disposal of, the consignee or any person authorised by the consignee to accept delivery of the consignment on his behalf;

(g) "endorsee" means the person in whose favour an endorsement is made, and in the case of successive endorsements, the person in whose favour the last endorsement is made;

(h) "endorsement" means the signing by the consignee or the endorsee after adding a direction on a negotiable multimodal transport document to pass the property in the goods mentioned in such document to a specified person;

(i) "goods" includes—

(I) containers, pallets or similar articles of transport used to consolidate goods; and

(II) animals;

(j) "mode of transport" means carriage of goods by road, rail, inland waterways or sea;

(k) "multimodal transportation" means carriage of goods by two or more modes of transport from the place of acceptance of the goods in India to a place of delivery of the goods outside India;

(l) "multimodal transport contract" means a contract entered into by the consignor and the multimodal transport operator for multimodal transportation;

(m) "multimodal transport operator" means any person who—

(i) concludes a multimodal transport contract on his own behalf or through another person acting on his behalf;

(ii) acts as principal, and not as an agent either of the consignor or of the carrier participating in the multimodal transportation, and who assumes responsibility for the performance of the said contract; and

(iii) is registered under sub-section (3) of section 4;

(n) "negotiable multimodal transport document" means a multimodal transport document which is—

(i) made out to order or to bearer; or

(ii) made out to order and is transferable by endorsement; or

(iii) made out to bearer and is transferable without endorsement;

(o) "non-negotiable multimodal transport document" means a multimodal transport document which indicates only one named consignee;

(p) "prescribed" means prescribed by rules made under this Ordinance;

(q) "registration" means registration of multimodal transport operator under sub-section (3) of section 4.

CHAPTER II

REGULATION OF MULTIMODAL TRANSPORTATION

3. No person shall carry on or commence the business of multimodal transportation unless he is registered under this Ordinance:

No person to carry on business without registration.

Provided that a person carrying on the business of multimodal transportation immediately before the commencement of this Ordinance, may continue to do so for a period of three months from such commencement; and if he has made an application for registration within the said period, till the disposal of such application.

4. (1) Any person may apply for registration to the competent authority to carry on or commence the business of multimodal transportation.

Registration for multimodal transportation.

(2) An application under sub-section (1) shall be made in such form as may be prescribed and shall be accompanied by a fee of ten thousand rupees.

(3) On receipt of the application, the competent authority shall satisfy that the applicant fulfils the following conditions, namely:—

(a) (i) that the applicant is a shipping company or a company engaged in the business of freight forwarding in India or abroad with a minimum annual turnover of fifty lakh rupees during the immediate preceding financial year or an average annual turnover of fifty lakh rupees during the preceding three financial years as certified by a chartered accountant within the meaning of the Chartered Accountants Act, 1949;

(ii) that if the applicant is a company other than a company specified in sub-clause (i), the subscribed share capital of such company is not less than fifty lakh rupees;

(b) that the applicant has offices or agents or representatives in not less than two other countries,

and on being so satisfied, register the applicant as a multimodal transport operator and grant a certificate to it to carry on or commence the business of multimodal transportation;

Provided that the competent authority may, for reasons to be recorded in writing, refuse to grant registration if it is satisfied that the applicant does not fulfil the said conditions.

(4) A certificate granted under sub-section (3) shall be valid for a period of one year and may be renewed from time to time for a further period of one year at a time.

(5) An application for renewal shall be made in such form as may be prescribed and shall be accompanied by a fee of two thousand rupees.

Cancellation of registration.

5. The competent authority may, if it is satisfied at any time after registration that—

(a) any statement in, or in relation to, any application under sub-section (2) of section 4 or its renewal under sub-section (5) of that section, is incorrect or false in any material particular; or

(b) any of the provisions of this Ordinance or the rules made thereunder has been contravened by the multimodal transport operator; or

(c) the multimodal transport operator has not entered into any multimodal transport contract during the preceding two years after his registration,

cancel by order the certificate of registration:

Provided that no such registration shall be cancelled unless the multimodal transport operator has been given a reasonable opportunity of showing cause against the proposed action.

Appeal.

6. (1) Any person aggrieved by an order made by the competent authority under section 5 may prefer an appeal to the Central Government within such period as may be prescribed.

(2) No appeal shall be admitted if it is preferred after the expiry of the prescribed period:

Provided that an appeal may be admitted after the expiry of the prescribed period if the appellant satisfies the Central Government that he had sufficient cause for not preferring the appeal within the prescribed period.

(3) Every appeal made under this section shall be made in such form and on payment of such fees as may be prescribed and shall be accompanied by a copy of the order appealed against.

(4) On receipt of any such appeal, the Central Government shall, after giving the parties a reasonable opportunity of being heard and after making such inquiry as it deems proper, make such order as it thinks fit.

CHAPTER III

MULTIMODAL TRANSPORT DOCUMENT

7. (1) Where the consignor and the multimodal transport operator have entered into a contract for the multimodal transportation and the multimodal transport operator has taken charge of the goods, he shall, at the option of the consignor, issue a negotiable or non-negotiable multimodal transport document.

Issue of multimodal transport document.

(2) The multimodal transport document shall be signed by the multimodal transport operator or by a person duly authorised by him.

8. (1) Every consignee named in the negotiable or non-negotiable multimodal transport document and every endorsee of such document, as the case may be, to whom the property in the goods mentioned therein shall pass, upon or by reason of such consignment or endorsement, shall have all the rights and liabilities of the consignor.

Multi-modal transport document to be regarded as document of title.

(2) Nothing contained in sub-section (1) shall prejudice or affect the right of the multimodal transport operator to claim freight from the consignor or enforce any liability of the consignee or endorsee by reason of his being such consignee or endorsee.

9. The multimodal transport document shall contain the following particulars, namely:—

Contents of multimodal transport document.

(a) the general nature of the goods, the leading marks necessary for identification of the goods, the character of the goods (including dangerous goods), number of packages or units and the gross weight and quantity of the goods;

(b) apparent condition of the goods;

(c) the name and principal place of business of the multimodal transport operator;

(d) the name of the consignor;

(e) the name of the consignee, if specified by the consignor;

(f) the place and date of taking charge of the goods by the multimodal transport operator;

(g) the place of delivery of the goods;

(h) the date or the period of delivery of the goods at the place of delivery;

(i) whether it is negotiable or non-negotiable;

(j) the place and date of its issue;

(k) freight payable by the consignor or the consignee, as the case may be;

(l) the signature of the multimodal transport operator of a person duly authorised by him;

(m) the intended journey route, modes of transport and places of transshipment, if known at the time of its issue;

(n) terms of shipment and a statement that the document has been issued subject to and in accordance with this Ordinance; and

(o) any other particular which the parties may agree to insert in the document, if any such particular is not inconsistent with any law for the time being in force.

Reserva-
tion in
the multi-
modal
transport
document.

10. (1) Where the multimodal transport operator or a person acting on his behalf knows, or has reasonable grounds to suspect, that the particulars furnished by the consignor in the multimodal transport document do not accurately represent the goods actually taken in charge, or if he has no reasonable means of checking such particulars, the multimodal transport operator or a person acting on his behalf shall insert in the multimodal transport document a reservation specifying the inaccuracies, if any, the grounds of suspicion or the absence of reasonable means of checking the particulars.

(2) Where the multimodal transport operator or a person acting on his behalf fails to insert the reservation in the multimodal transport document relating to the apparent condition of the goods, he shall be deemed to have accepted the goods in apparent good condition.

Evidentiary
effect of
the multi-
modal
transport
document.

11. Save as provided in section 10,—

(a) the multimodal transport document shall be *prima facie* evidence of the fact the multimodal transport operator has taken charge of the goods as described in the document; and

(b) no proof to the contrary by the multimodal transport operator shall be admissible if the multimodal transport document is issued in negotiable form and has been transmitted to the consignee or transferred by the consignee to a third party, if the consignee or the third party has acted in good faith relying on the description of the goods in the document.

Responsi-
bility of
the
consignor.

12. (1) The consignor shall be deemed to have guaranteed to the multimodal transport operator the adequacy and accuracy, at the time the multimodal transport operator takes charge of the goods, of the particulars referred to in clauses (a) and (b) of section 9 as furnished by the consignor for insertion in the multimodal transport document.

(2) The consignor shall indemnify the multimodal transport operator against loss resulting from inadequacy or inaccuracy of the particulars referred to in sub-section (1).

(3) The right of the multimodal transport operator under sub-section (2) shall in no way limit his liability under the multimodal transport contract to any person other than the consignor.

CHAPTER IV

RESPONSIBILITIES AND LIABILITIES OF THE MULTIMODAL TRANSPORT OPERATOR

Basis of
liability of
multi-
modal
transport
operator.

13. (1) The multimodal transport operator shall be liable for loss resulting from—

(a) any loss of, or damage to, the consignment;

(b) delay in delivery of the consignment and any consequential loss or damage arising from such delay,

where such loss, damage or delay in delivery took place while the consignment was in his charge:

Provided that the multimodal transport operator shall not be liable if he proves that no fault or neglect on his part or that of his servants or agents had caused or contributed to such loss, damage or delay in delivery:

Provided further that the multimodal transport operator shall not be liable for loss or damage arising out of delay in delivery unless the consignor had made a declaration of interest in timely delivery which has been accepted by the multimodal transport operator.

Explanation.—For the purposes of this sub-section, “delay in delivery” shall be deemed to occur when the consignment has not been delivered within the time expressly agreed upon or, in the absence of such agreement, within a reasonable time required by a diligent multimodal transport operator, having regard to the circumstances of the case, to effect the delivery of the consignment.

(2) If the consignment has not been delivered within ninety consecutive days following the date of delivery expressly agreed upon or the reasonable time referred to in the *Explanation* to sub-section (1), the claimant may treat the consignment as lost.

14. (1) Where a multimodal transport operator becomes liable for any loss of, or damage to, any consignment, the nature and value whereof have not been declared by the consignor before such consignment has been taken in charge by the multimodal transport operator and the stage of transport at which such loss or damage occurred is not known, then the liability of the multimodal transport operator to pay compensation shall not exceed two Special Drawing Rights per kilogram of the gross weight of the consignment lost or damaged or 666.67 Special Drawing Rights per package or unit lost or damaged, whichever is higher.

Limits of liability when the nature and value of the consignment have not been declared and stage of transport where loss or damage occurred is not known.

Explanation.—For the purposes of this sub-section, where a container, pallet or similar article of transport is loaded with more than one package or unit, the packages or units enumerated in the multimodal transport document, as packed in such container, pallet or similar article of transport shall be deemed as packages or units.

(2) Notwithstanding anything contained in sub-section (1), if the multimodal transportation does not, according to the multimodal transport contract, include carriage of goods by sea or by inland waterways, the liability of the multimodal transport operator shall be limited to an amount not exceeding 8.33 Special Drawing Rights per kilogram of the gross weight of the goods lost or damaged.

Limits of liability when the nature and value of the consignment have not been declared and stage of transport where loss or damage occurred is known.

15. Where a multimodal transport operator becomes liable for any loss of, or damage to, any consignment, the nature and value whereof have not been declared by the consignor before such consignment has been taken in charge by the multimodal transport operator and the stage of transport at which such loss or damage occurred is known, then the limit of the liability of the multimodal transport operator for such loss or damage shall be determined in accordance with the provisions of the relevant law applicable in relation to the mode of transport during the course of which the loss or damage occurred and any stipulation in the multimodal transport contract to the contrary shall be void and unenforceable.

Liability of the multimodal transport operator in case of delay in delivery of goods under certain circumstances.

16. Where delay in delivery of the consignment occurs under any of the circumstances mentioned in the *Explanation* to sub-section (1) of section 13, or any consequential loss or damage arises from such delay, then, the liability of the multimodal transport operator shall be limited to the freight payable for the consignment so delayed.

Assessment of compensation.

17. (1) Assessment of compensation for loss of, or damage to, the consignment shall be made with reference to the value of such consignment at the place where, and the time at which, such consignment is delivered to the consignee or at the place and time when, in accordance with the multimodal transport contract, it should have been delivered.

(2) The value of the consignment shall be determined according to the current commodity exchange price, or, if there is no such price, according to the current market price, or, if the current market price is not ascertainable, with reference to the normal value of a consignment of the same kind and quantity.

Loss of right of multimodal transport operator to limit liability.

18. The multimodal transport operator shall not be entitled to the benefit of limitation of liability under any of the provisions of this Chapter if it is proved that the loss, damage or delay in delivery of consignment resulted from an act or omission of the multimodal transport operator with intent to cause such loss, damage or delay or recklessly and with knowledge that such loss, damage or delay would probably result.

Limit of liability of multimodal transport operator for total loss of goods.

19. The multimodal transport operator shall not, in any case, be liable for an amount greater than the liability for total loss of goods for which a person will be entitled to make a claim against him under the provisions of this Ordinance.

20. (1) The delivery of the consignment to the consignee by the multimodal transport operator shall be treated as *prima facie* evidence of delivery of the goods as described in the multimodal transport document unless notice of the general nature of loss of, or damage to, the goods is given, in writing, by the consignee to the multimodal transport operator at the time of handing over of the goods to the consignee.

Notice of loss of or damage to goods.

(2) Where the loss or damage is not apparent, the provisions of sub-section (1) shall apply unless notice in writing is given by the consignee of the loss of, or damage to, the goods within six consecutive days after the day when the goods were handed over to the consignee.

CHAPTER V

MISCELLANEOUS

21. (1) Where the consignor hands over the prescribed dangerous goods to a multimodal transport operator or any person acting on behalf of such operator, the consignor shall inform him of the nature of the dangerous goods and, if necessary, the precautions to be taken while transporting such goods.

Special provision for dangerous goods.

(2) Where the consignor fails to inform the multimodal transport operator or the other person acting on behalf of such operator of the nature of the dangerous goods and such operator or person does not otherwise have knowledge of the dangerous goods—

(a) the consignor shall be liable to the multimodal transport operator or the other person acting on behalf of such operator for all loss resulting from the multimodal transportation of such goods; and

(b) the goods may at any time be unloaded, destroyed or rendered innocuous, as the circumstances may require, without payment of compensation.

22. (1) The multimodal transport operator who has not been paid the amount of consideration stipulated in the multimodal transport contract shall have a lien on the consignment and on the documents in his possession.

Right of multimodal transport operator to have lien on goods and documents.

(2) Notwithstanding anything contained in sections 13, 16 and 18, the period during which the goods are in possession of the multimodal transport operator in exercise of his right of lien referred to in sub-section (1) shall not be included for the purposes of calculating the time of delay under any of those sections.

23. Notwithstanding anything contained in any other provision of this Ordinance, it shall be lawful for the parties to the multimodal transport contract to include in the multimodal transport document any provision relating to general average.

Explanation.—For the purposes of this section, “general average” means loss, damage or expense reasonably incurred in order to avert danger to property in common peril and in the common interest involved in the multimodal transportation.

Limitation
on
action.

24. The multimodal transport operator shall not be liable under any of the provisions of this Ordinance unless action against him is brought within nine months of—

(a) the date of delivery of the goods, or

(b) the date when the goods should have been delivered, or

(c) the date on and from which the party entitled to receive delivery of the goods has the right to treat the goods as lost under subsection (2) of section 13.

Jurisdic-
tion for
instituting
action.

25. Any party to the multimodal transport contract may institute an action in a court which is competent and within the jurisdiction of which is situated one of the following places, namely:—

(a) the principal place of business, or, in the absence thereof, the habitual residence, of the defendant; or

(b) the place where the multimodal transport contract was made, provided that the defendant has a place of business, branch or agency at such place; or

(c) the place of taking charge of the goods for multimodal transportation or the place of delivery thereof; or

(d) any other place specified in the multimodal transport contract and evidenced in the multimodal transport document.

Arbitra-
tion.

26. (1) The parties to a multimodal transport contract may provide therein that any dispute which may arise in relation to multimodal transportation under the provisions of this Ordinance shall be referred to arbitration.

(2) The arbitration proceeding may be instituted at such place or in accordance with such procedure as may be specified in the multimodal transport document.

Delegation
of power.

27. The Central Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Ordinance, except the power under section 30, shall, in such circumstances and subject to such conditions, if any, as may be specified therein, be exercisable also by such officer or authority as may be specified in the notification.

Multi-
modal
transport
contract
to be
made in
accordance
with this
Ordi-
nance.

28. No person registered as a multimodal transport operator shall enter into any contract for multimodal transportation except in accordance with the provisions of this Ordinance and any contract, to the extent it is inconsistent with the said provisions, shall be void and unenforceable.

Ordi-
nance
to over-
ride other
enactments.

29. The provisions of this Ordinance shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Ordinance.

30. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Ordinance.

Power
to make
rules.

(2) In particular, and without prejudice to the generality of the foregoing provisions, such rules may provide for all or any of the following matters, namely:—

(a) the forms in which applications shall be made under section 4;

(b) the period within which appeal shall be preferred under subsection (1) of section 6;

(c) the form in which an appeal shall be preferred under section 6 and the amount of fee payable in respect of such appeal;

(d) dangerous goods for the purpose of section 21;

(e) any other matter which is to be, or may be, prescribed.

(3) Every rule made under this Ordinance shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

31. On and from the date of the commencement of this Ordinance, the enactments specified in Parts I, II and III of the Schedule shall be amended in the manner specified therein.

Amend-
ment of
certain
enact-
ments.

Ord. 18
of 1992.

32. (1) The Multimodal Transportation of Goods Ordinance, 1992 is hereby repealed.

Repeal
and
savings.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of this Ordinance.

THE SCHEDULE

(See section 31)

AMENDMENT OF CERTAIN ENACTMENTS

PART I

Amendments of the Carriers Act, 1865

(3 of 1865)

In the Carriers Act, 1865,—

(a) in section 2, in the definition relating to “common carrier”, after the words “engaged in the business of”, the words “transporting property under multimodal transport document or of” shall be inserted;

(b) in sections 6, 7 and 8, for the words "property delivered", the words and brackets "property (including container, pallet or similar article of transport used to consolidate goods) delivered" shall, respectively, be substituted;

(c) in sections 9 and 10, for the words "goods entrusted", the words and brackets "goods (including containers, pallets or similar article of transport used to consolidate goods) entrusted" shall, respectively, be substituted.

PART II

Amendment to the Indian Carriage of Goods by Sea Act, 1925

(26 of 1925)

In the Indian Carriage of Goods by Sea Act, 1925,—

(a) in the Preamble, after the second paragraph, the following paragraph shall be inserted, namely:—

"AND WHEREAS the said rules were amended by the Protocol signed at Brussels on 23rd February, 1968 and by the Protocol signed at Brussels on 21st December, 1979;";

(b) in section 7, in sub-section (1), for the words and figures "sections 331 and 352", the words, figures and letters "section 331 and Part XA" shall be substituted;

(c) in the Schedule,—

(i) in Article I, in clause (o), after the word "merchandise", the words "containers, pallets or similar article of transport used to consolidate goods if supplied by the shipper," shall be inserted;

(ii) in Article III,—

(1) in paragraph 4, the following shall be added at the end, namely:—

"However, proof to the contrary shall not be admissible when the bill of lading has been transferred to a third party acting in good faith.";

(2) in paragraph 6, in the third sub-paragraph, the following shall be added at the end, namely:—

"This period may, however, be extended if the parties so agree after the cause of action has arisen:

Provided that a suit may be brought after the expiry of the period of one year referred to in this sub-paragraph within a further period of not more than three months as allowed by the court.";

(iii) in Article IV, in paragraph 5,—

(1) for the words and figures "amount exceeding 100 l. per package or unit", the words and figures "amount exceeding 666.67 Special Drawing Rights per package or unit or

two Special Drawing Rights per kilogram of gross weight of the goods lost or damaged, whichever is higher" shall be substituted;

(2) after the first sub-paragraph, the following sub-paragraphs shall be inserted, namely:—

"Where a container, pallet or similar article of transport is used to consolidate goods, the number of packages or units enumerated in the bill of lading and as packed in such article of transport shall be deemed to be the number of packages or units for the purposes of this paragraph as far as these packages or units are concerned.

Neither the carrier nor the ship shall be entitled to the benefit of limitation of liability provided for in this paragraph if it is proved that the damage resulted from an act or omission of the carrier done with intent to cause damage, or recklessly and with knowledge that damage would probably result.

Where the nature or value of the goods has been knowingly misstated by the shipper in the bill of lading, the liability of the carrier or ship shall not exceed the value so stated."

PART III

Amendment to the Sale of Goods Act, 1930

(3 of 1930)

In the Sale of Goods Act, 1930, in section 2, in clause (4), after the words "railway receipt," the words "multimodal transport document," shall be inserted.

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secy. to the Govt. of India.

